

1 Timothy C. Travelstead, Esq. (SBN 215260)  
2 *t.travelstead@narayantravelstead.com*  
3 Scott C. Ku, Esq. (SBN 314970)  
4 *s.ku@narayantravelstead.com*  
5 NARAYAN TRAVELSTEAD P.C.  
6 7901 Stoneridge Drive, Suite 230  
7 Pleasanton, CA 94588  
8 Telephone: (650) 403-0150

9 Attorneys for Plaintiff  
10 HINDU AMERICAN FOUNDATION

11  
12 IN THE UNITED STATES DISTRICT COURT  
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14 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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16 HINDU AMERICAN FOUNDATION, INC., a  
17 Florida Not For Profit Corporation,

18 Plaintiff,

19 vs.

20 KEVIN KISH, an individual, in his official  
21 capacity as Director of the California Civil  
22 Rights Department; and DOES 1 - 50, inclusive,

23 Defendants.  
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Case No. 2-22-cv-01656-DAD-JDP

**PLAINTIFF HINDU AMERICAN  
FOUNDATION'S REQUEST FOR  
JUDICIAL NOTICE ISO OPPOSITION  
TO DEFENDANT'S MOTION TO  
DISMISS PURSUANT TO RULE 12(b)(1)  
AND 12(b)(6)**

Date: September 19, 2023  
Time: 1:30 p.m.  
Judge: Hon. Dale A. Drozd  
Dept.: Courtroom 4, 15<sup>th</sup> Floor

Date Action Filed: September 20, 2022

I. **INTRODUCTION**

Plaintiff Hindu American Foundation (“HAF”) respectfully requests that this Court take judicial notice of: (1) a Form 990 public tax filing by the Catholic League, as published by the Internal Revenue Service (“IRS”); and (2) the IRS instructions for completing a Form 990, in accordance with the Federal Rules of Evidence, Rule 201.

II. **MATTERS TO BE NOTICED**

HAF respectfully requests that this Court take judicial notice of the following documents:

1. **Exhibit A:** The Catholic League’s filed IRS Form 990 for Tax Year 2019 as published by the IRS. The attached Form 990 for Tax Year 2019 was retrieved from the IRS’s website on June 28, 2023. (Declaration of Timothy C. Travelstead in Support of Request for Judicial Notice in Opposition, “Travelstead Decl.,” ¶ 2, Exh. A).

2. **Exhibit B:** The IRS’s instructions for Form 990 Return of Organization Exempt Form Income Tax for Tax Year 2019. The attached IRS instructions is posted on the IRS’s website (<https://www.irs.gov/pub/irs-prior/i990--2019.pdf>) and was also retrieved from the IRS’s website on June 28, 2023. (Travelstead Decl., ¶ 3, Exh. B).

3. **Exhibit C:** The IRS’s instructions for Form 990 Return of Organization Exempt Form Income Tax for Tax Year 2022. The attached IRS instructions is posted on the IRS’s website (<https://www.irs.gov/pub/irs-pdf/i990.pdf>) and was also retrieved from the IRS’s website on June 28, 2023. (Travelstead Decl., ¶ 3, Exh. C).

III. **LEGAL STANDARD**

A court “must take judicial notice if a party requests it and the court is supplied with the necessary information.” Fed. R. Evid. 201(c)(2). This Court can judicially notice any “fact that is not subject to reasonable dispute because it . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2). In other words, “the fact must be one that only an unreasonable person would insist on disputing.” *United States v. Jones*, 29 F.3d 1549, 1553 (11th Cir. 1994). Only relevant facts may be

judicially. See *Milton H. Greene Archives, Inc. v. Marilyn Monroe LLC*, 692 F.3d 983, 991 n.8 (9th Cir. 2012).

#### IV. DISCUSSION

##### A. JUDICIAL NOTICE OF PUBLIC TAX FILINGS IS APPROPRIATE

The tax filings of a nonprofit organization are available for public inspection. 26 U.S.C. § 6104(d). Accordingly, tax documents are appropriate for judicial notice because they are “matters of public record” not “subject to reasonable dispute.” *Lee v. City of Los Angeles*, 250 F.3d 668, 689-90 (9th Cir. 2001); see *Sanders v. Kerry*, 180 F. Supp. 3d 35, 41 (D.D.C. 2016) (public records are subject to judicial notice); *Africare, Inc. v. Xerox Complete Document Solutions Maryland, LLC*, 436 F. Supp. 3d 17, 44 (D.D.C. 2020) (taking judicial notice of revenue statements in IRS Form 990).

Courts may also take judicial notice of government documents available from reliable sources on the internet, such as the IRS’s public-facing website. *United States ex rel. Modglin v. DJO Global, Inc.*, 48 F. Supp. 3d 1362, 1381 (C.D. Cal. 2014) (“Under Rule 201, the court can take judicial notice of [p]ublic records and government documents available from reliable sources on the internet, such as websites run by governmental agencies.”); see also *California River Watch v. City of Vacaville*, No. 2:17-cv-00524-KJM-KJN, 2017 WL 3840265, at \*2 n.1 (E.D. Cal. Sept. 1, 2017) (taking judicial notice of information published on a governmental website); *Africare, Inc.*, 436 F. Supp. 3d at 44 n.21 (granting motion to take judicial notice of Forms 990s published on company’s own website).

Defendant Kevin Kish, in his official capacity as the Director of the California Civil Rights Department (the “Department”) sought judicial notice of HAF’s tax filings, published by the IRS on its website, in arguing that HAF is not a membership association entitled to assert associational standing. HAF, in opposition, seeks to judicially notice the tax filings of The Catholic League for Religious & Civil Rights, to accompany its citation to authority where a court specifically found The Catholic League for Religious & Civil Rights, an entity like HAF, is

1 has associational standing even though it also is not a 501(c)(4) or 501(c)(5) organization that  
2 charged membership dues. (*See* Opp. To Mot. To Dismiss at p. 11).

3 HAF's Form 990 here is identical to The Catholic League for Religious & Civil Rights  
4 regarding membership issues, and the tax responses pointed to by Defendant Kish are not  
5 relevant to or determinant of associational standing.

6 The foregoing documents were obtained directly from the IRS's website and go directly  
7 to Defendant Kish's argument. Accordingly, this Court may properly take notice of the relevant  
8 information contained therein.

9 **V. CONCLUSION**

10 For the foregoing reasons stated herein, HAF respectfully asks that this Court grant is  
11 request for judicial notice of the specified documents pursuant to Rule 201.

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14 Dated: June 29, 2023

Respectfully Submitted,

15 /s/ Timothy C. Travelstead  
16 Timothy C. Travelstead, Esq.  
17 Scott C. Ku, Esq.  
18 Attorneys for Plaintiff  
19 HINDU AMERICAN FOUNDATION  
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